

JUDGE FRANK MONTALVO

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

ALFREDO REYES,

Plaintiff,

V.

UNITED STATES OF AMERICA,

Defendant.

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No.

EP14CV0092

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now ALFREDO REYES complaining of the UNITED STATES OF AMERICA, hereinafter referred to as Defendant, and would respectfully show the Court the following:

I.

This action arises under the Federal Tort Claims Act, 28 U.S.C., Section 1346(b) and 2661 et seq.

II.

Plaintiff resides in the above entitled judicial district. The acts of negligence occurred in El Paso, Texas.

III.

At all relevant times, Defendant, by and through the Department of Veterans Affairs, owned and operated the Veterans Affairs Medical Center in El Paso, Texas.

IV.

Plaintiff received continuing urological from Defendant beginning and before 2000 up to the present. In October 2000, Plaintiff's had a blood test to measure his prostrate specific antigen (PSA), it exceeded normal results. On or about May 2010 Plaintiff underwent another PSA test which again was abnormally high. In March 2012, Plaintiff underwent yet another PSA test which necessitated a biopsy of his prostate which diagnosed cancer of the prostate.

V.

At all times herein mentioned, Plaintiff was treated by doctors, nurses and other medical staff, some of which are unknown to the Plaintiff, all of whom were employed as doctors, nurses, and other medical assistants at Veterans Affairs Medical Center in El Paso, Texas. In doing or omitting to do all of the things alleged herein, the agents of the Defendant were acting within the course and scope of their employment, and with the permission and consent of the Defendant.

VI.

Agents of the Defendant were careless, reckless, and negligent in that they failed to adhere to the standard of care observed by physicians, nurses and their assistants in the El Paso, Texas, area in that they:

1. Failing to timely diagnose prostate cancer;
2. Misdiagnosing and/or miscalculating the staging of the prostate cancer;
3. Failing to timely and appropriately treat the prostate cancer;
4. Failing to surgically remove the prostate followed up by radiation therapy;
5. Obtaining an inadequate biopsy sample of the prostate and/or adjacent tissue;

6. Failing to timely perform a pathologic evaluation of the prostate tissue;
7. Failing to follow up on a high PSA result; and
8. Allowed Plaintiff's prostate cancer to spread to adjacent tissue.

VII.

Plaintiff suffered the following damages, both past and future:

- a. Physical pain and mental anguish;
- b. loss of earning capacity;
- c. disfigurement;
- d. physical impairment;
- e. medical care and expense; and
- f. Loss of life expectancy.

VIII.

By reason of the foregoing the Plaintiff has been damaged in the sum of \$10,000,000.00.

IX.

On or about May 15, 2013, Plaintiff filed an administrative claim with the Department of Veterans Affairs in the sum of TEN MILLION DOLLARS (\$10,000,000.00). More than six months has expired without any action on the part of Veterans Affairs Claims Service. This is tantamount to the denial of claim.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited and served to appear and answer, and upon final trial of this cause, Plaintiff have judgment against the Defendant in the sum of \$10,000,000.00 and for such other and further relief, both general

and special, at law and in equity to which plaintiff may be justly entitled.

Respectfully submitted,

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